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ORACLE AMERICA, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,

Plaintiff,

v.

GOOGLE INC.,

Defendant.

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Case No. CV 10-03561 WHA

**STIPULATION AND [PROPOSED]
ORDER TO EXTEND DEADLINE TO
DEPOSE HENRIQUE DE CASTRO**

Dept.: Courtroom 8, 19th Floor
Judge: Hon. William Alsup

STIPULATION

WHEREAS, the Court previously issued an order permitting Oracle to depose former Google employee Henrique de Castro by January 15, 2016 (Dkt. No. 1401);

WHEREAS, Oracle has since encountered difficulties in serving Mr. de Castro and scheduling his deposition;

WHEREAS, Google has produced most of Mr. de Castro's documents but cannot complete the custodial production of certain remaining documents until at least January 29, 2016 due to third-party notice requirements, and expects production to be complete shortly thereafter;

WHEREAS, Oracle and Google are working on a stipulation regarding the admission of certain documents in lieu of deposing Mr. de Castro;

WHEREAS, Oracle and Google seek additional time to either finalize that stipulation after Google completes production of Mr. de Castro's documents or, alternatively, to schedule Mr. de Castro's deposition; and

WHEREAS, Oracle and Google agree that the additional time requested will not require any other changes to the case schedule;

NOW, THEREFORE, the Parties AGREE AND STIPULATE that:

Google agrees to produce the remainder of Mr. de Castro's custodial documents within ten days of the expiration of the period for third-party notification, or within ten days of third-party consent, whichever is earlier; and

The deadline for Oracle to take the deposition of Henrique de Castro is extended to February 29, 2016.

Dated: January 14, 2016

BOIES, SCHILLER & FLEXNER LLP

By: /s/ Steven C. Holtzman
STEVEN HOLTZMAN
Attorneys for Plaintiff
ORACLE AMERICA, INC.

Dated: January 14, 2016

Keker & Van Nest LLP

By: /s/ Matthias Kamber
MATTHIAS KAMBER
Attorneys For Defendant
GOOGLE, INC.

ATTESTATION OF CONCURRENCE

I, Steven Holtzman, the ECF User whose ID and password are being used to file this Stipulation To Extend Deadline To Depose Henrique de Castro, hereby attest that Matthias Kamber and Beko Reblitz-Richardson have concurred in this filing.

Dated: January 14, 2015

By: /s/ Steven C. Holtzman
STEVEN HOLTZMAN

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Date: _____

Honorable William Alsup
Judge of the United States District Court

DECLARATION OF BEKO REBLITZ-RICHARDSON

I, Beko Reblitz-Richardson, declare as follows:

1. I am a partner with the law firm of Boies, Schiller & Flexner LLP, attorneys for plaintiff Oracle America, Inc. in the above captioned matter, and admitted to practice before this Court. I make this declaration based on my own personal knowledge. If called as a witness, I could and would testify competently as to the matters set forth herein.

2. I submit this declaration in support of the parties' Stipulation to Extend Deadline to Depose Henrique de Castro, pursuant to Civil Local Rules 7-11, 7-12, and 6-3.

3. Mr. de Castro is a former Google executive. On December 1, 2015, Oracle's counsel issued a subpoena compelling Mr. de Castro's attendance at a deposition in New York, New York on December 16, 2015. I understand that Mr. de Castro informed the process server that he was unavailable on the date specified for his deposition.

4. On December 16, 2015, the parties stipulated that Oracle could take the deposition of Mr. de Castro after the close of fact discovery and no later than January 15, 2016, which this Court approved. As reflected in the parties' stipulation (Dkt. 1401), the difficulty in serving Mr. de Castro was a factor in the request for additional time.

5. In connection with Mr. de Castro's deposition, Oracle requested and Google agreed to produce documents from Mr. de Castro's files. Google has produced documents from Mr. de Castro's files on a rolling basis, including a production of more than 11,000 pages of documents on December 28, 2015 and additional documents on January 13, 2015. According to Google's counsel, Google has not yet completed production of Mr. de Castro's documents.

6. On January 4, 2016, I called Mr. de Castro and spoke with him by telephone concerning his deposition. I informed Mr. de Castro that we would need to schedule his deposition for that week or the following week. Mr. de Castro informed me that he was seeking to retain an attorney in connection with the noticed deposition, and he asked me to email him so that he could then put me in touch with his attorney; he did not commit to a date for a deposition.

1 On that same day, shortly after our call, I sent a follow-up email to Mr. de Castro regarding his
2 deposition.

3 7. On January 7, 2016, I attempted twice to reach Mr. de Castro by telephone, using the
4 same phone number I used to reach him on January 4th. Mr. De Castro did not answer either call,
5 and I was unable to leave a message because his voicemail inbox was full.

6 8. On January 8, 2016, I issued a subpoena requiring Mr. de Castro's attendance at a
7 deposition in New York, New York on January 14, 2016. On January 8th, I also sent a follow up
8 email to Mr. de Castro at the email address he had provided on January 4th, and I sent him a copy
9 of the subpoena.

10 9. On January 12, 2016, I again called Mr. de Castro and spoke with him by telephone.
11 I informed Mr. de Castro that I had emailed him and that we needed to schedule his deposition.
12 Mr. de Castro stated that he still had not retained an attorney and would not commit to a time for
13 the deposition until he did so.

14 10. Oracle and Google have been discussing a stipulation regarding the admission of
15 certain documents in lieu of Mr. de Castro's deposition. The parties have made considerable
16 progress regarding that stipulation, and have already agreed to the admission of certain
17 documents, but the parties are awaiting the final production of Mr. de Castro's documents to
18 finalize that agreement. Google produced additional documents from Mr. de Castro's files on
19 January 13, 2016, and Google's counsel informed my co-counsel that they expect to complete the
20 production of Mr. de Castro's documents on or shortly after January 29, 2016.

21 11. At my direction, a Boies, Schiller & Flexner LLP employee reviewed the docket
22 entries in this matter to determine the previous time modifications in this case, whether by
23 stipulation or court order. Attached hereto as Appendix A is a list of the time modifications that
24 were identified in that review.

25 12. It is my understanding and expectation that the requested extension of time for Mr.
26 de Castro's deposition will have no impact on the schedule of the case.

27 //

28 I declare under penalty of perjury that the foregoing is true and correct and that this

1 declaration was executed on January 14, 2016 at Oakland, California.

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3 By: /s/ Beko Reblitz-Richardson
4 Beko Reblitz-Richardson
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APPENDIX A

Pursuant to Local Rule 6-2(a)(2), the following is a list of all previous time modifications in the case, whether by stipulation or Court order:

- On August 25, 2010, Google filed a stipulation extending the deadline to file its responsive pleading from September 3, 2010 to October 4, 2010. Dkt. 9.
- On July 28, 2011, Oracle filed a stipulation extending fact discovery cut-off and due dates for expert reports. Dkt. 246. The order was entered on August 1, 2011. Dkt. 257.
- On August 18, 2011, Oracle filed a motion extending time to file their response to Google's request to file a motion for summary judgement on Oracle's infringement allegations under 35 U.S.C. § 271(c) . Dkt. 321. The motion was granted that same day. Dkt. 322.
- On August 22, 2011, Google filed a stipulation extending due dates for expert rebuttal and reply reports on patent-related issues. Dkt. 348. The order was entered on August 29, 2011. Dkt. 364.
- On September 1, 2011, Oracle filed a stipulation extending the cut-off for the depositions of Motorola Mobility, Inc., Dipchand Nishar, and Thomthy Lind. Dkt. 378. The order was entered that same day. Dkt. 381.
- On September 2, 2011, the Court shortened the briefing schedule for Google's motion to strike. Dkt. 385.
- On September 15, 2011, Oracle filed a stipulation extending the non-damages expert discovery cut-off for the deposition of David August. Dkt. 432. The order was entered on September 16, 2011. Dkt. 437.
- On October 5, 2011, Google filed a stipulation extending time to file certain pre-trial materials. Dkt. 487. The order was entered on October 6, 2011. Dkt. 488.
- On October 12, 2011, Oracle filed a stipulation extending time to file jury instructions, verdict forms, and trial briefs. Dkt. 516. The order was entered that same day. Dkt. 517.
- On October 28, 2011, John Cooper on behalf of Dr. James Kearl filed a request to extend time to file Rule 706 expert report. Dkt. 754. The order was entered that same day. Dkt. 575.

- On November 17, 2011, Google filed a stipulation extending time for depositions of Timothy Bray and John Rizzo. Dkt. 623. The order was entered on November 18, 2011. Dkt. 624.
- On December 27, 2011, the Court extended the due date for Dr. James Kearl's expert report. Dkt. 658.
- On April 23, 2012, Google filed a Motion for Extension of Time to File Motion for Administrative Relief to Extend Deadline for Filing Under Seal. Dkt. 966. That motion was granted on April 25, 2015. Dkt. 973.